

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

Great Northern Utilities, Inc.	)	
	)	
Camelot Utilities, Inc.	)	
	)	
Lake Holiday Utility Corp.	)	Docket Nos. 11-0059
	)	11-0141
	)	11-0142
Proposed Increase in Water and	)	(cons.)
Sewer Rates	)	
	)	

**INITIAL BRIEF ON REHEARING OF**  
**THE PEOPLE OF THE STATE OF ILLINOIS**

**The People of the State of Illinois**

**By LISA MADIGAN, Attorney General**

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The People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois (the “People,” or “AG”), pursuant to the Commission’s rules, 83 Ill. Admin. Code 200.800, file their Initial Brief on Rehearing to address the mitigation of rate shock and the appropriate steps needed to alleviate the economic burden which will result from the substantial revenue increase allowed Great Northern, Camelot, and Lake Holiday (the “Utilities”). The People request that the Commission adopt the phase-in plan proposed by AG witness Michael Brosch, or in the alternative, adopt the phase-in plan described by Staff witness Phillip Rukosuev, as more specifically discussed below. In addition, the People request that the Commission initiate an investigation into the cost of service and opportunities to alleviate rate shock by considering all 23 Illinois subsidiaries of Utilities, Inc, the Utilities’ common parent.

## **I. STATEMENT OF FACTS**

On December 21, 2011 the Commission ordered rehearing in this docket to explore options to alleviate rate shock on consumers and “mitigate the effect of these enormous bill increases.” Tr. of Comm’n Bench Session at 32 (Dec. 21, 2011). As one Commissioner stated, “it is appropriate for us to . . . figure out . . . [how] this rate increase could be smoothed so the pocketbooks of the ratepayers are – they will be damaged, but at a less astounding speed.” *Id.* at 35. The following table shows the size of the allowed revenue increases. Great Northern and Camelot primarily serve the residential class, which is responsible for producing the revenues allowed.

**Table 1: Approved Revenue Increases**

Final Order Amounts	Present Revenue	Revenue Increase	Proposed Revenue	% Change
Great Northern Water	90,962	231,287	322,249	254%
Camelot Water	75,339	162,124	237,463	215%
Camelot Sewer	106,044	94,259	200,303	89%
Lake Holiday Water	443, 578	219,616	663, 194	50%

Sources: Appendices A, B, C, and D to Final Order (Nov. 8, 2011).

Three parties offered testimony on rehearing. The Company offered the direct and rebuttal testimony of Dimitry Neyzelman (who adopted the direct testimony of Lena Georgiev), the Staff offered the direct and rebuttal testimony of Phillip Rukosuev, and the People of the State of Illinois offered direct testimony of Michael L. Brosch and Scott J. Rubin. Neither of the People's witnesses offered rebuttal testimony. Hearings and cross-examination occurred on February 29, 2012.

People's witness Mr. Brosch testified that "[t]he magnitude of the approved increases is unusually great, requiring a phase-in approach to enable consumers to accommodate and accept the much higher revenue levels that have been found to be needed." AG Ex. 2.0 on Reh'g at 3. Mr. Brosch's proposal is designed so that it "properly balances ratepayer and Company interests both by gradually increasing rates over time to give consumers time to adjust their usage and spending and by compensating the Companies for the time value of money during that period of deferral." AG Ex. 2.0 on Reh'g at 15.

Mr. Brosch’s proposed phase-in plan would increase rates either by \$10 per month per year (equaling \$120 per year) or 20% of an average bill per year, whichever is greater. AG Ex. 2.0 on Reh’g at 9. In Mr. Brosch’s plan, each year the utility could defer for future recovery the amount of revenue that exceeds these guidelines. In summary, the phase-in would take between 0 and 10 years, as shown below:

**Table 2: Phase-in Schedule**

Utility Name	Percentage Increase	Number of Years for Phase-In
Great Northern Water	254%	9 years
Camelot Water	215%	10 years
Camelot Sewer	89%	6 years
Lake Holiday Water	50%	0 years

Sources: AG Ex. 2.0 on Reh’g at 14-15; AG Ex. 2.3 on Reh’g.

The People also presented the testimony of Scott J. Rubin. Mr. Rubin has extensive experience in water industry regulation, as well as more general utility regulatory experience. AG Ex. 3.0 on Reh’g at 1-2. He has testified extensively in connection with utilities that serve multiple rate areas, both in Illinois and in other states. *Id.* at 3; *see, e.g., Aqua Ill.*, ICC Docket 11-0436, Order at 40, 43-44 (Feb. 16, 2012); *Ameren Utilities*, ICC Docket 10-0517, Order at 15-18 (Mar. 15, 2011); *Ill. Am. Water Co.*, ICC Docket 09-0319, Order at 154, 160, 165 (April 13, 2010); *Ill. Am. Water Co.*, ICC Docket 02-0690, Order at 90, 97 (Aug. 12, 2003). Mr. Rubin testified that the Utilities are owned by Utilities, Inc. (“UI”), which in total owns 23 water and/or sewer systems in Illinois. He recommended that the Commission investigate UI’s entire 23 system Illinois service area to determine whether there are rate mitigation possibilities on a company-wide basis. AG Ex. 3.0 on Reh’g at 5-7.

Staff witness Phillip Rukosuev agreed that an investigation into UI's statewide operations could provide the Commission with tools to alleviate rate shock and address other system issues. He testified in his rebuttal testimony that "[g]enerally speaking, I agree with Mr. Rubin's recommendation." Staff Ex. 18.0 Rev. at 3. In his direct testimony, he pointed out the following considerations in connection with consolidation:

The Commission should encourage UI to seriously consider some form of consolidation of its 23 water and wastewater subsidiaries in Illinois. Consolidation would create increased efficiencies and has proven successful for other water utilities (For example, Aqua Illinois and Illinois American Water Company have consolidated its separate water and sewer divisions over the years.) Consolidation may also be beneficial for UI customers because not only may it protect them against dramatic rate increases but is also useful to address smaller system viability issues. Customers will also benefit from decreased rate case and administrative expenses due to the UI's ability to file single, consolidated rate cases for its many water and sewer operations.

Staff Ex. 17.0 Rev. at 10-11. Mr. Rukosuev recommended that "the Commission initiate a proceeding that would investigate, or require UI to show cause, regarding how to best address the issue of UI rate shock." Staff Ex. 18.0 Rev. at 6-7.

Utilities witness Neyzelman did not oppose an investigation into company-wide rate mitigation possibilities, and testified that the "Companies will look at the possibility of consolidating certain Illinois subdivisions in the future." Utilities Ex. 2.0 on Reh'g at 5.

In addition to addressing an investigation into consolidation, Staff witness Rukosuev presented a phase-in plan that differs from the plan proposed by Mr. Brosch. Although not supporting a phase-in, Mr. Rukosuev presented a phase-in plan, which he called a "rider bill stabilization" adjustment. Staff Ex. 17.0 on Reh'g at 14. His proposal would phase in rate increases for Great Northern and Camelot water and Camelot sewer over three years with rates capped at 60% of the approved rate in the year 2012, 75% in 2013, and 90% in 2013. *Id.* at 15. The difference between the charged and approved rates from those first three years would then

be billed to customers from 2015 to 2017, accruing an interest rate of 3.2%, which represents a weighting between the cost of short term debt and long term debt. *Id.* at 15-16. Thus under the Staff proposal, the rate increase for Great Northern and Camelot would be phased in over a six year period, unlike the People's proposal, where the phase-in period would vary for each Utility. The deferred charges and interest expense would be less under the Staff-designed plan, making consumer bills less expensive in the later recovery years than in Mr. Brosch's plan, while bills in the initial years would be higher.

Mr. Rukosuev suggested that customers have the option to join the phase-in plan, but that new customers be excluded. *Id.* at 16. He testified that customer education information, including outreach efforts and bill impacts, was important to the success of the plan, *id.* at 17, but no such materials are included in the record. He testified at the hearing that he did not know the cost of an opt-in or voluntary plan versus a plan that applies the same phase-in rate to all customers. Tr. at \*\* (Feb. 29, 2012, transcript pending).

The witness for the Utilities declined to offer a specific phase-in plan or other rate mitigation plan. Utilities Ex. 1.0 on Reh'g at 1-2. However, Mr. Neyzelman acknowledged on cross-examination that other Utilities, Inc. water utilities have adopted phase-in plans for increases considerably less than those in these dockets. UI has been ordered to implement rate phase-in plans in both Tennessee and Maryland to address rate increases that were substantially smaller than the ones the utilities request in this docket. In Tennessee, the utilities requested an increase of 70%. \*\* (Feb. 29, 2012, transcript pending). In Maryland, the utilities requested increases ranging from 38-47% for water services and 70% for sewer services. *Id.* at \*\*.

The People propose that the Commission adopt Mr. Brosch's phase-in plan so that consumers can adjust to the higher rates gradually and will be spared the excessive financial

disruption to household budgets that will result if they are required to cover bills that have tripled in size. In the alternative, the Commission can adopt the Staff phase-in recommendation, with the caveat that the plan only be voluntary if the cost of administering individualized plans is not unreasonable. Further, the Commission should open an investigation into UI's entire service area in Illinois, including an analysis of its cost of service, to determine if there is a lower cost way for UI to serve Illinois consumers.

## **II. ARGUMENT**

### **A. A phase-in plan is necessary to avoid rate shock and will fairly balance ratepayer and shareholder interests.**

As the Commission noted in granting rehearing, all parties essentially concede that the enormous size of the approved rate increases in this case will cause consumers to experience rate shock. Tr. of Comm'n Bench Session at 31 (Dec. 21, 2011). These large increases are inconsistent with the basic regulatory principle that assumes that the rates consumers pay are "just and reasonable." 220 ILCS 5/9-101 (2011). The utilities are entitled to seek rate changes as needed, and consumers are entitled to expect both that rates will change gradually over time, and that the utility company will fulfill its obligation to assure that the gap between rates and costs does not become too excessive. This structure is intended to avoid sudden price fluctuations that would cause rate shock and disrupt consumers' access to the basic necessities of life, such as water and wastewater services. The avoidance of rate shock is a well-established regulatory principle that has guided this Commission in determining appropriate utility rates. *See, e.g., Citizens Utils. Bd. v. Ill. Commerce Comm'n*, 276 Ill. App. 3d 730, 738, 658 N.E.2d 1194, 1201 (1st Dist. 1995); *Camelot Utils., Inc. v. Ill. Commerce Comm'n*, 51 Ill. App. 3d 5, 10, 365 N.E.2d 312, 315 (3d Dist. 1977).



The Illinois Supreme Court has held that “the fixing of ‘just and reasonable’ rates[] involves a balancing of the investor and the consumer interests.” *Ill. Bell Telephone Co. v. Ill. Commerce Comm’n*, 414 Ill. 275, 287 (1953) (quoting the U.S. Supreme Court in *Fed. Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944)). Mr. Brosch’s phase-in plan achieves this balance by gradually increasing rates while compensating the Utilities for the time value of money. Under his plan, and under the phase-in plan designed by Staff witness Rukosuev, both consumer and Utility interests are accommodated. Without a phase-in plan, the shareholders will be advantaged at ratepayer expense.

The Commission and the utility have tools available to them to alleviate rate shock when a utility seeks such large increases as in this case. A rate phase-in plan to spread rate increases over time is an effective tool to mitigate the effects of rate shock on consumers and give consumers time to adjust to a more gradual increase in charges. As Utilities’ witness Neyzelman testified at the hearing, UI has previously been subject to phase-in plans in other states where the increases were significantly smaller than those requested here (Tennessee: 66.4% total increase; Maryland: 27% total increase). Tr. at \*\* (Feb. 29, 2012, transcript pending). Copies of those orders are attached as Attachments 1 and 2. They are also available on the web sites of the respective Commissions. See <http://www.state.tn.us/tra/orders/2009/0900017r.pdf> and [http://webapp.psc.state.md.us/Intranet/Casenum/submit\\_new.cfm?DirPath=C:\Casenum\9200-9299\9248\Item\\_26\&CaseN=9248\Item\\_26](http://webapp.psc.state.md.us/Intranet/Casenum/submit_new.cfm?DirPath=C:\Casenum\9200-9299\9248\Item_26\&CaseN=9248\Item_26)

Adoption of one of the phase-in plans proposed on rehearing is the only way to alleviate the rate shock resulting from the large revenue increases of more than 200% allowed in these dockets.

**B. Interest on the deferred balances should not incorporate the high cost of equity.**

In response to the People's and the Staff proposals, Utilities witness Neyzelman suggested that a higher return be allowed on the deferred amount, equal to the allowed overall weighted cost of capital, which includes an equity component. Utilities Ex. 2.0 on Reh'g at 3; Order at 25. There is no reason to include an equity component, however, because the amount at issue will be subject to recovery over a relatively short period of time, and is an assured recovery more in the nature of debt. In response to the Utilities' rebuttal, the Staff offered a combined long and short term debt of 3.20% (rather than the 2.85% short term debt rate) to reflect recovery of the deferred amounts over a three year average. Staff Ex. 18.0 Rev. on Reh'g at 15. The People do not object to the Staff proposed rate.

In the alternative, People's witness Brosch applied the long term debt rate of 6.65% to the deferred balance. His approach reduces the deferred balance by accumulated deferred income taxes (ADIT). Mr. Brosch explained:

The phasing-in of revenue increases implies the delayed cash recovery of the Companies' operating expenses. This will result in the incurrence of expenses that are income tax deductible in advance of the year(s) when corresponding taxable revenues will be collected. If the Companies are directed to defer operating expenses as part of an approved phase-in plan, accumulated deferred income taxes ("ADIT") will be recorded to recognize the realization of current income tax deductions for expenses prior to the amortization of such deferred expenses on the books. *The tax deferral cash flow savings from this temporary timing difference should be recognized as a reduction to the regulatory asset deferral balance upon which any allowed interest charges are calculated.*

See AG Ex. 2.0 on Reh'g at 13-14 (emphasis added); MLB 2.3 on Reh'g at 7. The Utilities reflected this approach in their schedules. Utilities Ex. 2.0 on Reh'g at 4; Sch. 5 C-W & C-S & GN, page 2.

The Commission should assure that the interest on the deferred balance resulting from a phase-in reflects no more than a reasonable cost of capital based on the short period of time over

which the deferral will be outstanding. All of the effects of the deferral, including the savings the Utilities will realize as a result of deferring operating expenses as part of an approved phase-in plan, should be included in the phase-in plan and the calculation of the deferral amount so that the deferrals are minimized. If the Commission adopts the Staff phase-in proposal, the 3.20% hybrid long and short term debt interest rate proposed by Staff should include this condition. If the Commission adopts the longer term phase-in plan proposed by Mr. Brosch, the 6.65% long term debt interest rate can be applied, again with the tax deferral condition described by Mr. Brosch. However, in no case should the deferred balance receive a return that incorporates the high cost of equity.

**C. The phase-in plan should only be voluntary if consumers bear no additional cost as a result.**

Both the Staff and the Company suggest that the Commission make the phase-in plan voluntary, so that individual consumers can choose whether to participate. Staff Ex. 17.0 Rev. on Reh'g at 13; Utilities Ex. 2.0 on Reh'g at 3. The Utilities add that they should be allowed to defer costs associated with altering their billing systems to accommodate opt-in rates. *Id.* However, neither the Staff witness nor the Utilities witness was able to estimate the costs associated with an optional phase-in. Tr. at \*\* (Feb. 29, 2012, transcript pending).

In the original hearing and on cross-examination, the Utilities discussed the capabilities and the costs associated with the implementation of a new billing and customer service program, called Project Phoenix. Utilities Ex. 1.0 at 4-8 (each utility). Project Phoenix includes Oracle's Customer Care and Billing System ("CC&B"), which cost \$7,127,000. Utilities Ex. 1.0 at 7-8. Utilities witness Ms. Georgiev testified that this system allows the Utilities "on a daily basis to look up customer's accounts to answer billing questions. Billing issues are identified and resolved immediately before the customer receives their bill . . . . Customer Service personnel

use CC&B to look up customer accounts and review meter reads, payment history, consumption history and mailing addresses. All pertinent information is displayed on one screen which helps Customer Service answer questions quickly . . . . Payments are posted in real time to a customer's account through CC&B.” *Id.* at 7.

The Commission should only allow the phase-in to be optional if consumers incur no additional costs as a result. Utilities witness Neyzelman testified on cross-examination that the Utilities' new CC&B system has the capability to bill a phase-in plan, but expressed doubt about whether it could handle an optional plan that would have to be individually established for each customer. Tr. at \*\* (Feb. 29, 2012, transcript pending). He suggested that the Utilities would have to bring in a consultant to handle an “opt-in” plan. *Id.* Staff witness Rukosuev did not know the cost associated with making the phase-in optional. *Id.* at \*\*. In light of the lack of cost information, the Commission should either establish the phase-in rates as universal rates for all customers or allow an opt-in proposal but deny deferral of any costs associated with making the plan optional.

In recommending an optional plan, the Staff cited a Commonwealth Edison phase-in proposal from 2006. In Docket 06-0411, Commonwealth Edison proposed an optional phase-in plan in anticipation of higher electricity supply charges, and limited the increase per kilowatt-hour to 10% per year for three years. Order at 2. Unlike the situation in this case, the total increase facing ComEd's electric supply consumers was unknown, but the increases were capped at 10% over three years, demonstrating that the increases were significantly less than the 200% increases occasioned by the Orders for the Utilities in this docket. Further, the participation rate was expected to be quite low (a participation rate of 3% was estimated). See Order at 6-7. Notwithstanding this uncertainty, Commonwealth Edison estimated its costs as \$27.67 million.

*Id.* at 3. By contrast, in this docket there are no estimates of implementation costs associated with making the plan optional. In the absence of any cost data, the Commission should either not require the plan to be optional or let the Utilities decide if they want to offer the plan on an optional basis without deferred recovery of associated costs.

If the Utilities implement the phase-in plan as an optional plan and incur costs, those costs would be extraordinary or unusual costs that would not ordinarily be included in a test year. Although the parties do not know with any certainty when these utilities will seek further rate increases, it should not be soon given that the rates for Camelot and Great Northern are now among the highest in the state *among Commission regulated utilities*. See AG Ex. 1.0 at 11 (they are also higher than all but one of 256 other Illinois water/sewer systems whose prices were included in the Carbondale rate survey). The Commission should allow the Utilities to determine whether the phase-in plan should be offered on a voluntary basis with the understanding that associated costs cannot be deferred.

The rate increases at issue in this docket are far more burdensome than the increases facing consumers in the Commonwealth Edison docket cited by Staff and the Utilities. (ICC Docket 06-0411). Increases of more than 200%, with monthly charges increasing from \$21.02 to \$74.47 for Great Northern customers and increasing from \$69.76 to \$167.32 for Camelot water and sewer customers are extraordinarily high. It is evident that consumers will be very interested in a phase-in will, as demonstrated by the testimony of Camelot consumers and the numerous comments on the Commission's Public Comment site. In Docket 11-0059, Great Northern, there are 30 comments out of a total customer base of only about 360 customers. In Docket 11-0141, Camelot homeowners hired an attorney to represent their interests, filed 81 public comments out of about 200 customers, plus 10 consumers filed testimony on rehearing and 16 customers filed

testimony in the original hearing. Finally, several consumers took the time to come to downtown Chicago to address the Commission in person. See Commission Meeting Minutes, Tr. at 2-11 (Nov. 8, 2011). This extraordinary level of participation by the public should be taken as demonstrating a strong consumer interest in moderating the size of these increases and alleviating the burden the 200% increases are placing on consumers.

### **III. CONCLUSION**

The Commission should adopt a rate phase-in plan as the only presently available option to mitigate the effects of the shocking rate increases approved in this docket. A phase-in plan will allow consumers more time to adjust to painful bill increases over time, while still affording the Utilities a reasonable return on the deferred revenues, thereby fairly balancing ratepayer and shareholder interests. Further, a comprehensive investigation of the Utilities' cost of service and operations should be initiated to further explore ways to alleviate the very large rate increases currently being sought by UI utilities.

The People respectfully request that the Commission enter an order consistent with the recommendations contained in this Initial Brief on Rehearing for Great Northern Utilities, Inc, Camelot Utilities, Inc. and Lake Holiday Utilities Corporation.

Respectfully Submitted,

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